



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

April 27, 2010

Ms. Elizabeth West
Personnel Attorney
General Law Division
Texas Commission on Environmental Quality
P.O. Box 13087
Austin, Texas 78711-3087

OR2010-05973

Dear Ms. West:

You ask whether certain information is subject to required public disclosure under the Public Information Act (the "Act"), chapter 552 of the Government Code. Your request was assigned ID# 377660.

The Texas Commission on Environmental Quality (the "commission") received a request for the interview questions, preferred answers, and the requestor's answers and scores related to his interview for job posting number D1002, Natural Resources Specialist V — Work Leader. You state you have released some information to the requestor. You claim some of the submitted information is excepted from disclosure under section 552.122 of the Government Code. We have considered the exception you claim and reviewed the submitted information.

Section 552.122 of the Government Code excepts from required public disclosure "a test item developed by a . . . governmental body[.]" Gov't Code § 552.122(b). In Open Records Decision No. 626 (1994), this office determined the term "test item" in section 552.122 includes "any standard means by which an individual's or group's knowledge or ability in a particular area is evaluated," but does not encompass evaluations of an employee's overall job performance or suitability. Open Records Decision No. 626 at 6 (1994). The question of whether specific information falls within the scope of section 552.122(b) must be determined on a case-by-case basis. *Id.* Traditionally, this office has applied section 552.122 where release of "test items" might compromise the effectiveness of future examinations.

Id. at 4-5; *see also* Open Records Decision No. 118 (1976). Section 552.122 also protects the answers to test questions when the answers might reveal the questions themselves. *See* Attorney General Opinion JM-640 at 3 (1987); ORD 626 at 8.

You seek to withhold question numbers 11 and 12 and their preferred and actual answers under section 552.122. Having considered your arguments and reviewed the information at issue, we find that question numbers 11 and 12 evaluate an individual's knowledge or ability in a particular area for purposes of section 552.122(b). We also find the release of the answers to these questions would tend to reveal the questions themselves. You state the questions and answers are used on a recurring basis and will be used for future examinations. You further argue that release of the information at issue "would jeopardize the examination process of candidates for this position." Therefore, we conclude the commission may withhold question numbers 11 and 12 and their preferred and actual answers pursuant to section 552.122(b) of the Government Code.

This letter ruling is limited to the particular information at issue in this request and limited to the facts as presented to us; therefore, this ruling must not be relied upon as a previous determination regarding any other information or any other circumstances.

This ruling triggers important deadlines regarding the rights and responsibilities of the governmental body and of the requestor. For more information concerning those rights and responsibilities, please visit our website at http://www.oag.state.tx.us/open/index_orl.php, or call the Office of the Attorney General's Open Government Hotline, toll free, at (877) 673-6839. Questions concerning the allowable charges for providing public information under the Act must be directed to the Cost Rules Administrator of the Office of the Attorney General, toll free, at (888) 672-6787.

Sincerely,



Amy L.S. Shipp
Assistant Attorney General
Open Records Division

ALS/rl

Ref: ID# 377660

Enc. Submitted documents

cc: Requestor
(w/o enclosures)